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Fiftieth session

SUMMARY RECORD OF THE 1302nd MEETING

Held at Headquarters, New York,
on Monday, 28 March 1994, at 10 a.m.

Chairman: Mr. ANDO

later: Mr. WENNERGREN
(Vice-Chairman)

later: Mr. ANDO

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The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Mexico (CCPR/C/76/Add.2)

1. At the invitation of the Chairman, Mr. González Felix (Mexico), took a place at the Committee table.

2. Mr. GONZÁLEZ FELIX (Mexico) said that his Government attached particular importance to its reporting obligations under the Covenant, and in submitting the third periodic report (CCPR/C/76/Add.2), which had been prepared in accordance with the Committee's guidelines, sought to continue its dialogue with the Committee.

3. During the reporting period, Mexico had submitted reports in connection with its obligations under other human rights instruments, and his Government had ratified the Convention on the Rights of the Child and the International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169). The Government of Mexico had also signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

4. In domestic terms, the establishment of the National Human Rights Commission in June 1990 was of particular note. Various constitutional legal and organizational amendments had been adopted relating to the Commission, together with changes in its procedures, intended to consolidate its position as a non-adjudicatory organ for the protection of human rights. The Commission, now firmly established in the Mexican legal order, had already issued a number of reports covering its general programme of work as well as specific issues of particular relevance to the protection of human rights. During its four years of existence, the Commission had formulated over 700 recommendations for the guidance of the competent authorities.

5. In order to guarantee the legality of judicial proceedings, reforms had been introduced to the Federal Code of Criminal Procedure and the Federal Civil Servants' Responsibility Act, and measures had been adopted to ensure strict compliance with articles 14 and 16 of the Constitution with a view to strengthening safeguards during preliminary investigations and subsequent stages of proceedings. A new Federal Act for the Prevention and Punishment of Torture had been adopted, the key elements being the invalidation of any evidence obtained by means of torture, increased penalties for those guilty of torture and compensation for the victim and family members. New guidelines had also been introduced for police and other public officials involved in the detention or imprisonment of citizens.

6. An amendment relating to indigenous communities had been introduced in article 4 of the Constitution, as the result of the realization that members of indigenous communities in Mexico lived in conditions far removed from those called for by the Mexican Revolution and provided for under the Constitution.

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The reform reflected the reality of a multiplicity of indigenous languages and the marginal social conditions affecting most indigenous inhabitants. The two principal elements in the reform were recognition of the multicultural composition of the Mexican population and establishment of constitutional and legal guarantees of full and equal access to the jurisdiction of the State, as well as guarantees of protection of indigenous cultures. It was appreciated that legal initiatives were not enough to improve the social conditions of those living in marginalized situations of extreme poverty.

7. It was against such a background that the armed rebellion in the state of Chiapas, where marginalization and poverty had long prevailed, had erupted at the beginning of the year. The Government had responded with conciliatory measures intended to promote a peaceful resolution, appointing a Commissioner for Peace and Reconciliation and initiating steps for a general amnesty. Human rights had been fully respected, and the National Human Rights Commission had already produced an initial report on the rebellion. Further, more than 140 national and foreign non-governmental organizations had visited the area and conducted interviews.

8. Steps had already been taken to improve infrastructure and social security programmes in the affected area. In a broader context, the National Human Rights Commission had established an indigenous affairs programme, and the Government had brought together various federal departments in a National Commission for Comprehensive Development and Social Justice for Indigenous Peoples, with a view to coordinating social and development policies.

9. Formal negotiations had already begun between the Commissioner for Peace and reconciliation and the Ejército Zapatista de Liberación Nacional (EZLN), and accords had emerged comprising peace commitments, peace agreements and a declaration of peace. He trusted that the accords could soon be signed.

10. Mexico was currently undergoing a profound process of modernization in response to the challenges and demands of mobilization and interdependence, and the increasing expectations of society. The two essential goals were social justice and political democracy.

11. The conduct of genuinely free elections was a key element in that approach, and during the reporting period, electoral legislation had been amended and updated, a process that was continuing in the run-up to the federal elections of 1994. Various political factions had joined their efforts in devising a new electoral system, as a result of which there had been substantial amendment of the relevant constitutional provisions.

12. The reforms included changes in the electoral system governing the composition of the Chamber of Deputies with a view to achieving greater balance and increasing the representation of minority parties by means of a limit on the maximum number of seats awarded to the majority party. One significant result was that no single parliamentary group would in future have the power to approve constitutional reforms, since that would require a two-thirds majority in the Congress of the Union, thus necessitating broad agreement among parliamentary groups. The composition of the Senate had also undergone reform. Other

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electoral reforms included the granting of suffrage to ministers of religion with consequential access to public affairs, as well as improved access for citizens to public service, which had previously been subject to more restrictive birth requirements.

13. A Federal Electoral Register had been established in 1989, on the basis of which a completely new electoral roll had been prepared. Under the reform, a new electoral base had been established and voting credentials issued, bearing the elector's photograph as a security feature to guarantee the integrity of the voting procedure. The whole process had been carefully monitored by the electoral authorities and political parties.

14. Following constitutional reform intended to promote certainty, legality, impartiality, objectivity and professionalism in the electoral process, a new, autonomous agency, the Federal Electoral Institute, had been established in October 1990. The main difference between the Institute and its precursors lay in its decentralized structure and the fact that tasks related to the organization of federal elections, which had previously been dealt with separately, were now the responsibility of a permanent agency. New criminal sanctions had been introduced to safeguard the electoral process. In that connection, a Federal Electoral Court had been established and procedures for challenging results had been consolidated. The procedures for electoral verification and validation had also been amended during the reporting period, with competence being restricted to the electoral authorities; presidential elections, where authority was vested in Chamber of Deputies, constituted an exception.

15. In connection with access to public service, and in the context of Mexican legislation declaring political parties to be organs of public interest, changes had been introduced to electoral legislation with the aim of increasing the amounts of public funding provided to political parties, and of promoting smaller parties. As a result, for the first time limits on campaign expenditures had been established, together with regulations governing access to the media.

16. Mexico had made substantial progress in strengthening its political democracy. While not all problems had been resolved, an enormous effort was being made to consolidate a pluralistic and open society based on the conduct of free and fair elections. The Mexican paradigm was in full accordance with article 25 of the Covenant.

17. In consonance with its political doctrine, the Government of Mexico had cooperated with the international community in the promotion of human rights and fundamental freedoms. In submitting its report to the Committee, the Government sought to strengthen the institutions established to promote the fundamental rights of the individual.

18. Mr. Wennergren, Vice-Chairman, took the Chair.

19. The CHAIRMAN said that section I of the list of issues concerning the third periodic report of Mexico covered the following: the constitutional and legal framework within which the Covenant was implemented; state of emergency; non-discrimination; protection of the family and children; and rights of persons belonging to minorities. In paragraph (a), the reporting State was asked to describe the content of the political development programmes recently initiated, in so far as they might have an impact on the implementation of the provisions of the Covenant. In paragraph (b), it was asked to indicate cases in which the provisions of the Covenant had been directly invoked before the courts or mentioned in judicial decisions. Paragraph (c) sought information on the activities of the bodies for protection of human rights referred to in article 102, section B, of the Constitution, and their connection with the National Human Rights Commission. In paragraph (d), the reporting State was asked to indicate the legal force of decisions or recommendations adopted by the Commission on individual cases and its links with judicial bodies. Paragraph (e) inquired whether a state of emergency had been proclaimed in Mexico, and paragraph (f) inquired as to the results obtained in implementing programmes in favour of children obliged to work because of economic marginalization and street children, and other programmes envisaged to improve the situation in rural and urban areas. Paragraph (g) sought additional information on the scope of the reforms in the laws concerning political parties and the electoral system. In paragraph (h), the reporting State was asked to comment on the effect of the recent events in the Chiapas and other regions on the exercise of the rights guaranteed under the Covenant, particularly articles 25, 26 and 27. Paragraph (i) inquired about measures taken to resolve the land disputes referred to in paragraphs 203 to 210 of the report, their results, and how indigenous practices and customs had been taken into account in the procedures related to those issues. Paragraph (j) raised the question of the representation of indigenous populations and other minority groups in Congress and other national institutions, and in the Mexican administration.

20. Mr. GONZÁLEZ FELIX (Mexico) said that he had spoken at length, in the statement he had just made, on the contents and scope of the constitutional and legal reforms recently adopted by the Mexican Congress, which were the result of a broad-based effort to meet the expectations of the Mexican people regarding the reform and democratization of the entire electoral process. Those reforms included provisions raising the minimum representation of minority parties in Congress and making it impossible for any one political party to command the two thirds majority needed to amend the Constitution. They also included provisions regulating the financing of electoral campaigns, the machinery by which financing was provided and the purchase by political parties of time in the mass media in connection with election campaigns - all of which were intended to ensure the fairness and impartiality of the election process - as well as provisions to ensure the presence of at least six citizens without party affiliation on all electoral bodies. In addition, the leaders of the eight major political parties had recently signed an agreement which included provisions intended to further strengthen the impartiality of the election process through the adoption of measures to guarantee the impartiality of electoral officials and the appointment of a federal prosecutor to investigate and prosecute infringements of electoral law. The political parties were continuing their consultations with a view towards further strengthening the

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fairness of the election process, and had introduced a new bill in Congress carrying the reforms further.

21. Referring to section I (b) of the list of issues, he said that during the period under review, there had been no cases in which the provisions of the Covenant had been directly invoked before the courts, as all the rights guaranteed under the Covenant had been incorporated into the Constitution; where human rights cases arose, they were brought before the courts under the Constitution. With reference to section I (c), he said that article 102, section B, of the Constitution had now been fully implemented. The relationship between the bodies established by the States and the National Human Rights Commission was one of complete harmony and cooperation. Apart from ensuring the protection of human rights, the state agencies had taken a number of additional steps to prevent violations of human rights and to spread public knowledge of those rights. In September 1993, a Mexican federation of public human rights bodies had been established to further the effective legal defence of human rights and the prevention of human rights violations by coordinating the work of the various official and unofficial bodies. Those additional steps taken at the federal level were in no way intended to substitute for or replace the work being done by the official human rights bodies established under article 102, section B, of the Constitution, or the National Human Rights Commission.

22. Turning to section I (d), he said that the National Human Rights Commission was an autonomous body empowered to deal with administrative actions taken by public authorities affecting human rights. It did not deal with jurisdictional, labour or organizational matters, as other machinery was provided by law for dealing with those areas. Although its decisions were recommendatory, the bodies to which they were addressed were required to reply within 15 days and to comply with the recommendations made if they accepted them. In addition, the Commission's recommendations were publicized through the information media. The Commission's established and recogized effectiveness had contributed to the creation of a climate of increased awareness of human rights in Mexico.

23. Referring to section I (e), he said that no state of emergency had been proclaimed in Mexico since May 1942, as no situations falling under article 29 of the Constitution had arisen since that time.

24. Turning to section I (f), he noted that in 1991 Mexico had adopted all the provisions contained in the Convention on the Rights of the Child. The employment of minors was regulated under the Federal Labour Act and inspections were carried out regularly to determine whether and under what conditions minors were employed by enterprises. If any violations of the law were discovered, the labour authorities could levy fines. Additional legislation to protect minors was also being prepared. Moreover, a programme of vocational training had been initiated under which three specific training courses had been carried out in the paper-making industry. Further steps were being taken to integrate young people into the labour force, for example by issuing work permits to young people 16 to 18 years of age.

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25. The problem of street children was extremely complex, and its ultimate solution depended on a strategy of prevention. Thus, a major study of the situation of street children in Mexico City had been conducted with the cooperation of UNICEF, the municipal government and many private and public organizations. Support to the nuclear family, which was ultimately responsible for the care of children, was the focus of institutional activities. Given that the problems of street children were complex and multifaceted, the response must be multisectoral. Only a truly unified effort could provide comprehensive response and have a real impact on their quality of life.

26. In conjunction with the World Summit for Children, the Mexican Government had established strategies and programmes of action on behalf of children. The President received a progress report every six months that was disseminated through the media. A National Programme of Action for Children had been drawn up, not to duplicate existing national programmes but to coordinate and strengthen the goals and strategies contained in the National Development Plan 1989-1994. It covered the areas of health, education and basic sanitation, and also focused on children in especially difficult circumstances. Implementation of those programmes followed a three-pronged approach: direct attention to street children in their neighbourhoods or workplaces, prevention, and counselling services. The major goals were to promote changes in child behaviour, reintegrate children into families and prevent them from being put out on the street. In addition to inter-institutional coordination, agreements established with international organizations, such as UNICEF, had achieved a significant social impact, as reflected by the active participation of children in the activities designed to benefit them. Ongoing training had been provided for staff working with street children to promote changes in attitude and to reinforce the sense of human solidarity that would allow them to provide the best possible services.

27. Concerning section I (b) of the list of issues, he noted that detailed information had been provided during the introduction to the report. The delegation was ready, however, to provide any additional information required.

28. With regard to section I (h), he said that the conflict in the Chiapas region had not affected the participation of the people in public affairs; on the contrary, a significant increase in political awareness had occurred and public participation had actually increased. In the course of the current consideration of a possible change in the date for the election of a governor, political parties, citizens' groups and individuals had participated actively. As far as articles 26 and 27 of the Covenant were concerned, as a result of the events in Chiapas, the Government had redoubled its efforts to provide protection to indigenous groups, who were among the most vulnerable to violations of human rights. The National Human Rights Commission had visited indigenous communities in the state to receive information concerning the various complaints submitted, which were under investigation. Protection of human rights was never simple, even under normal conditions; it had been made much more difficult by the armed conflict and its aftermath.

29. Turning to section I (i) of the list of issues, he said that measures taken to resolve land disputes included amendments to articles 4 and 27 of the

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Constitution, strengthening the protection provided under the law for the language, culture, customs, resources and social organization of indigenous groups, and guaranteeing their members access to jurisdiction. Greater protection was also provided for their land, including lands held in common ownership. As a result of the constitutional reform, an office of the public prosecutor and a tribunal for agrarian matters had been established. The public prosecutor provided support, assistance and legal representation to indigenous communities, and the land tribunals considered cases brought before them and issued definitive judgements. In the consideration of cases involving land belonging to indigenous groups, their customs had to be taken into account. Either the proceedings had to take place in their indigenous language or interpretation had to be provided.

30. One of the most complex problems faced by indigenous communities was the legal defence of their land, and the National Human Rights Commission had issued over 20 recommendations to federal, local and municipal authorities whose actions had affected the rights of indigenous communities. When those communities had been the victims of abuses, the Commission had also demanded respect for the provisions of article 4 of the Constitution.

31. Concerning section I (j), he pointed out that a system of quotas for representation of members of indigenous groups in Congress, in national institutions and in the civil service had never been established, because in Mexico, indigenous peoples had never been treated as minorities requiring special status. Consideration for those groups had been part of the country's general policies, which emphasized programmes for their integration and assimilation as members of a multiracial and multicultural society. The movement to seek minority status by the leaders of indigenous groups was relatively recent, becoming more pronounced after 1992.

32. Mr. Ando resumed the Chair.

33. Mr. BRUNI CELLI said that the news of the establishment of the National Human Rights Commission was welcome, as was the noteworthy progress made in human rights law. Apparently, however, the Mexican authorities were not following the recommendations of the Commission. Its 1990-1991 report had contained over 10,000 allegations of human rights violations; it had also issued 269 recommendations, and some concern had been expressed because 136 of those recommendations had not been followed. In 1992, the Commission had made public its concern about the response to its report on the part of the authorities. More information was needed on proposals and measures taken with regard to those recommendations.

34. Turning to paragraph 18 of the report (CCPR/C/76/Add.2), he said that according to his understanding of the "ability to govern clause", if a political party received only 35 per cent of the popular vote, it would automatically be awarded 51 per cent of the seats in the Chamber of Deputies. A more specific explanation of that clause was needed, since it appeared contrary to the spirit of the provisions of article 25 of the Covenant guaranteeing the free expression of the will of the electors. Regarding the reference in paragraph 47 to article 133 of the Constitution, which stated that international human rights treaties and conventions were part of Mexican domestic law, he found it

difficult to harmonize the provisions of the Covenant with electoral laws that were not in conformity with the basic principle of representation, and would welcome further clarification.

35. In conclusion, he inquired whether the third periodic report had been made public through the media, had been circulated to non-governmental organizations or had been made available for consultation by both public and private human rights organizations.

36. Mr. AGUILAR said that the "ability to govern clause" referred to in paragraph 18 of the report needed clarification. He found it surprising that a party that had obtained 35 per cent of the vote should be entitled to a majority in the Chamber of Deputies; that would frustrate the will of the people, in violation of article 25 of the Covenant. In most other countries with a parliamentary system, if no party obtained an absolute majority of the vote, the various parties held negotiations in order to determine the composition of the legislature in accordance with the democratic principles.

37. The National Human Rights Commission had complained that its recommendations were not being implemented by the Government; it would be interesting to learn whether, in such cases, the Commission could act as counsel for a private party and could institute legal proceedings directly.

38. He would welcome additional information on the status of women in Mexico and on whether affirmative-action measures had been enacted.

39. The Government should clarify paragraph 81 of the report, which stated: "There has recently been a trend towards interference in the internal affairs of States under the pretext of protecting human rights throughout the world. This runs counter to the principles of non-intervention and respect for State sovereignty enunciated in a number of international instruments, including the Universal Declaration of Human Rights". The Government should indicate whether it participated in international humanitarian actions in cases of massive violations of human rights, as in Somalia or Bosnia and Herzegovina.

40. Lastly, he would appreciate information on the steps taken to publicize the report.

41. Mrs. CHANET said that she, too, found paragraph 81 surprising, as well as irrelevant. In undertaking to guarantee the rights embodied in the Covenant, Mexico had partially surrendered its sovereignty. Furthermore, the Committee's role in monitoring the fulfilment by a State party of its obligations under the Covenant was an integral part of the Covenant.

42. It would be useful to learn whether the envisaged legislation giving members of the clergy the right to vote was intended to afford them full access to public life and, if so, whether the Government would then be able to withdraw its reservations to the Covenant especially on articles 18 and 25. She noted, furthermore, that the reservation to article 25, restricting the office of President of the Republic and the post of magistrate to Mexican nationals by

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birth applied only to subparagraph (b) and not to subparagraph (c). In the light of the Mexican representative's statement that the Government was considering the withdrawal of that restriction in respect of the Presidency, she wondered whether the same would apply to the magistracy.

43. With regard to the "ability to govern clause", she shared the same concerns of other speakers. All experts in constitutional law agreed that the current electoral system favoured the governing party, which had, indeed, been in power for over 60 years. In addition to the advantages which it enjoyed, the ruling party had been accused, most recently during the 1992 elections, of removing the names of supporters of opposition candidates from the rolls. While complaints had been filed with the electoral tribunals, they had all been dismissed on technical grounds. The Government should explain what steps it was taking to ensure free and fair elections, as well as the means by which political parties and election campaigns were financed.

44. Since the establishment of the National Human Rights Commission in 1990, some 4,800 complaints had been registered, but criminal proceedings had been instituted in only a few dozen cases. The Commission had complained that its recommendations were not being implemented and that it was not empowered to bring complaints before the courts. In a few well-known instances, such as the Madrigal case, the Commission had not even been notified that prosecutions were under way or that convictions had been handed down. Accordingly, she would be grateful for additional information on the Commission's role and functioning.

45. She also found it surprising that, despite the magnitude of the events in Chiapas, the Government had not deemed it appropriate to declare a state of emergency. It was not true that fundamental rights had not been suspended; during the period from 2 to 12 January 1994, a number of persons had been arrested without warrants, and people had been prevented from entering or leaving a town in the area. Article 4 of the Covenant, permitted some restrictions on freedom of movement in the event of a state of emergency; it was unclear why the Government had not availed itself of that provision.

46. Mr. MAVROMMATIS said that it would have been preferable for the report to have been submitted earlier so that the Committee would have had time to absorb the wealth of information it contained.

47. With regard to the problems relating to Mexico's indigenous populations, he associated himself with what had been said by previous speakers. In reading the report, he had formed the impression that those problems were due partly to the remoteness and inaccessibility of the regions in which indigenous people lived, and partly to the contrast between their laws and customs and those of the Mexican State. The Government must ensure that human rights norms were applied equally in all parts of the country.

48. As to the "ability to govern clause", he noted that the electoral systems in other countries, including the United Kingdom, enabled parties which obtained less than 35 per cent of the vote to enjoy a comfortable majority in Parliament. Nevertheless, the Government should explain why its system differed from that of

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most other countries in that members of Parliament could not be re-elected for a second consecutive term, and how that could be reconciled with article 25 of the Covenant. The provision excluding members of the clergy from public office should also be clarified. Furthermore, if more than three political parties competed in the elections, each obtaining almost an equal share of the vote, the relative-majority system would probably result in the second-ranking party acquiring more power than it was entitled to.

49. Drawing attention to paragraph 22 of document HRI/CORE/1/Add.12, which stated that political parties must obtain at least 1.5 per cent of the total number of votes in order to continue to be legally registered, he asked whether a party needed to be registered in order to exist, and what difference there was between parties that were permanently registered and those that were not permanently registered.

50. While the National Human Rights Commission had done a commendable job in promoting awareness of human rights and fundamental freedoms, he noted that non-governmental organizations referred to it as the "governmental human rights commission", which indicated that there were doubts as to its impartiality and effectiveness. The best way to strengthen the Commission's independence, as well as the public perception of its independence, would be for the Government and the people to respect and implement its decisions.

51. Mr. PRADO VALLEJO said that, while Mexico had made substantial progress in recent years in strengthening its human rights legislation, it should be more specific about how that legislation was applied in practice.

52. He endorsed the comments made by Mrs. Chanet regarding paragraph 81 of the report, and recalled that one of the basic principles of the inter-American human rights protection system, as reflected in the Andean Pact, was that the defence and promotion of human rights in no way infringed upon the principle of non-interference in the internal affairs of States.

53. Further information should be provided on the impact on human rights of drug trafficking and the measures to combat it.

54. While welcoming the establishment of the National Human Rights Commission, he questioned its effectiveness, since its recommendations were not binding and, according to reports received by the Committee, were sometimes not implemented or not made public.

55. Likewise, while the establishment of the Indigenous Groups Programme was a sound initiative, and while he welcomed the amnesty granted to the rebels in Chiapas, he had received information indicating that indigenous communities which had taken part in the armed uprising had been subjected to excessive violence and repression. The Government should clarify whether such reports had been investigated and, if they were true, whether those responsible had been punished.

56. There was nothing in the report or the Government's replies to indicate that there was any incompatibility between traditional laws and customs and the

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Constitution. The Committee had received reports, dating back to 1990, of human rights violations committed by the security forces against indigenous groups. It was unclear whether such violations were continuing despite the official statements that they would not be tolerated. It was the Government's responsibility to investigate the complaints submitted by the regional human rights commissions, and to publicize the results of those investigations and the action taken.

57. Lastly, he endorsed the comments of previous speakers with regard to the "ability to govern clause".

The meeting rose at 1.05 p.m.